

0 6 MAY 2008

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

**DECISION ON** 

WIGGIN AND DANA LLP

ATTENTION: PATENT DOCKETING ONE CENTURY TOWER, P.O. BOX 1832

NEW HAVEN CT 06508-1832

In re Application of :

HELLSTROM et al

Application No. 10/581,761

PCT No.: PCT/SE2004/001814

Int. Filing Date: 06 December 2004

Priority Date: 05 December 2003 : PETITION UNDER

Attorney's Docket No.: 0208/76419-PCT-US

For: METHOD OF USE...

METHOD OF USE THEREOF : 37 CFR 1.137 (b)

This decision is in response to applicant's "RESPONSE TO NOTIFICATION OF MISSING REQUIREMENTS FILED WITH A PETITION UNDER 37 CFR 1.137(b)," filed on 10 April 2008.

# **BACKGROUND**

On 06 December 2004, this international application was filed, which claimed priority to an application filed on 05 December 2003. The deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.495 was 05 June 2006.

On 05 June 2006, applicants filed a Transmittal letter for entry into the national stage in the United States Patent and Trademark Office (USPTO), which was accompanied by, the basic national fee. No executed declaration or oath was filed at such time.

On 13 February 2007, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that the oath or declaration complying with 37 CFR 1.497(a) and (b), identifying the application by the International application number and International filing date and that a copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 CFR 1.821(e)." The Notice stated that the above items must be furnished within the time period set forth. The notification set a two months time limit or 32 months from the priority date for the application, whichever is later to respond, and that failure to properly respond would result in abandonment.

On 08 February 2008, the United States Patent and Trademark Office mailed the Notification of Abandonment (PCT/DO/EO/909) because applicant has failed to respond to the notification of MISSING REQUIREMENTS (Form PCT/DO/EO/905), mailed 02/13/2007 within the time period set therein.

Application No.: 10/581,761

On 10 April 2008, applicants filed the instant petition under 37 CFR 1.137(b), which was accompanied by the petition fee, an executed declaration and a copy of the sequence listing in computer-readable form (CRF).

### **DISCUSSION**

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (1) the proper reply by submitting a properly executed declaration, but the copy of the sequence listing in computer-readable form is flawed (2) the petition fee set forth in §1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy items (2) - (4) but not item (1) under 37 CFR 1.137(b). As such, the application remains abandoned.

## **DECISION**

The petition under 37 CFR 1.137(b) is **DISMISSED** without prejudice.

If reconsideration of the merits of the petition under 37 CFR 1.137(b) is desired, applicant must file a request for reconsideration within **TWO (2) MONTHS** from the mail date of this Decision. Failure to timely submit the proper reply will result in abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." Extensions of time are available under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Rafael Bacares

PCT Legal Examiner PCT Legal Office

Telephone: (571) 272-3276 Facsimile: (571) 273-0459

Enc: Error report on flawed CRF

\_\_\_\_\_\_

Sequence Listing could not be accepted due to errors.

See attached Validation Report.

If you need help call the Patent Electronic Business Center at (866) 217-9197 (toll free).

Reviewer: Anne Corrigan

Timestamp: [year=2008; month=4; day=30; hr=20; min=16; sec=49; ms=897; ]

\_\_\_\_\_\_

\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*

Reviewer Comments:

SEQUENCE LISTING

<110> Hellström, Mats Wallgard, Elisabet Kalén, Mattias

Please remove the foreign accent marks in the first and third applicant's names; foreign accent marks are non-ACII characters, which cannot be processed.

<120> ANGIOGENESIS-AFFECTING POLYPEPTIDES, PROTEINS, AND COMPOSITIONS, AND METHODS OF USE THEREOF

The above <120> response exceeds the Sequence Rules' required 72-character line limit: please adjust the line, by inserting hard returns.

(from the end of Sequence 52)
Ser Cys Ser Leu Glu Pro Ser Ala Pro Glu Asp Leu Leu
850 855 860

1

Please remove the "1" above, which appears at the end of the submitted file.

### Validated By CRFValidator v 1.0.3

Application No:

10581761

Version No:

1.0

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Output Set:

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**Finished:** 2008-04-15 14:50:00.843

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Total Warnings: 30

Total Errors: 2

No. of SeqIDs Defined: 52

Actual SeqID Count: 52

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Finished: 2008-04-15 14:50:00.843

**Elapsed:** 0 hr(s) 0 min(s) 2 sec(s) 858 ms

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Total Warnings: 30

Total Errors: 2

No. of SeqIDs Defined: 52

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321

Actual SeqID Count: 52

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Arg Arg Thr Tyr Pro Arg Pro His Glu Tyr Leu Ser Pro Ala Asp Leu 50 55 60

Pro Lys Asn Trp Asp Trp Arg Asn Val Asn Gly Val Asn Tyr Ala Ser 65 70 75 80

Val	Thr	Arg	Asn	G1n 85	His	Ile	Pro		Tyr 90	Суз	Gly	Ser	Cys	Trp 95	Ala
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Gly	Asn 130	Ala	Gly	Ser	Cys	Glu 135	Gly	Gly	Asn	Asp	Leu 140	Pro	Val	Trp	Glu
145			•		150					155				Tyr	160
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. –		195				÷	200					205		Glu Met	
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Thr Tyr Pro Arg Pro His Glu Tyr Leu Ser Pro Ala Asp Leu Pro Lys 50 55 60

Ser Trp Asp Trp Arg Asn Val Asp Gly Val Asn Tyr Ala Ser Ile Thr 65 70 75 80

Arg Asn Gln His Ile Pro Gln Tyr Cys Gly Ser Cys Trp Ala His Ala 85 90 95

Ser Thr Ser Ala Met Ala Asp Arg Ile Asn Ile Lys Arg Lys Gly Ala 100 105 110

Trp Pro Ser Thr Leu Leu Ser Val Gln Asn Val Ile Asp Cys Gly Asn 115 120 125

Ala Gly Ser Cys Glu Gly Gly Asn Asp Leu Ser Val Trp Asp Tyr Ala 130 135 140

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Lys Glu Cys His Ala Ile Arg Asn Tyr Thr Leu Trp Arg Val Gly Asp 180 185 190 Tyr Gly Ser Leu Ser Gly Arg Glu Lys Met Met Ala Glu Ile Tyr Ala 195 200 205

Asn Gly Pro Ile Ser Cys Gly Ile Met Ala Thr Glu Arg Leu Ala Asn 210 215 220

Tyr Thr Gly Gly Ile Tyr Ala Glu Tyr Gln Asp Thr Thr Tyr Ile Asn 225 230 235 240

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<213> Murinae gen. sp.

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<213> Murinae gen. sp.

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50 55 60	
Thr Ala Gly Pro Ser Cys Ser Leu Leu Gln Glu Ala Phe Arg Arg Tyr	
65 70 75 80	
The Arm The Mal Dhe Clu Dhe The Tree Arm His His Clu Dec Als Arm	
Tyr Asn Tyr Val Phe Gly Phe Tyr Lys Arg His His Gly Pro Ala Arg 85 90 95	

Phe Arg Ala Glu Pro Gln Leu Gln Lys Leu Leu Val Ser Ile Thr Leu
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Gln Glu Val Phe Asp Asp Lys Val Glu Leu Gln Pro Gly Thr Val Val 385 390 395 400

Glu Val Trp Lys Ser Glu His Tyr Ser Tyr Glu Leu Lys Gln Val Thr 405 410 415

Gly Ser Gly Phe Pro Ala Ile Leu Ser Ala Pro Trp Tyr Leu Asp Leu 420 425 430

Ile Ser Tyr Gly Gln Asp Trp Lys Asn Tyr Tyr Lys Val Glu Pro Leu